

FIRST REGULAR SESSION

HOUSE BILL NO. 863

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SAULS.

1336H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 287.067, RSMo, and to enact in lieu thereof two new sections relating to workers' compensation for firefighters and other first responders.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 287.067, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 287.067 and 287.068, to read as follows:

287.067. 1. **(1)** In this chapter the term "occupational disease" is hereby defined to mean, unless a different meaning is clearly indicated by the context, an identifiable disease arising with or without human fault out of and in the course of the employment. Ordinary diseases of life to which the general public is exposed outside of the employment shall not be compensable, except where the diseases follow as an incident of an occupational disease as defined in this section. The disease need not to have been foreseen or expected but after its contraction it must appear to have had its origin in a risk connected with the employment and to have flowed from that source as a rational consequence.

(2) For the purposes of this section, the term "hazardous duty" has the same meaning given to such term under 5 CFR 550.902.

2. An injury or death by occupational disease is compensable only if the occupational exposure was the prevailing factor in causing both the resulting medical condition and disability. The "prevailing factor" is defined to be the primary factor, in relation to any other factor, causing both the resulting medical condition and disability. Ordinary, gradual deterioration, or progressive degeneration of the body caused by aging or by the normal activities of day-to-day living shall not be compensable.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 3. An injury due to repetitive motion is recognized as an occupational disease for
18 purposes of this chapter. An occupational disease due to repetitive motion is compensable only
19 if the occupational exposure was the prevailing factor in causing both the resulting medical
20 condition and disability. The "prevailing factor" is defined to be the primary factor, in relation
21 to any other factor, causing both the resulting medical condition and disability. Ordinary,
22 gradual deterioration, or progressive degeneration of the body caused by aging or by the normal
23 activities of day-to-day living shall not be compensable.

24 4. "Loss of hearing due to industrial noise" is recognized as an occupational disease for
25 purposes of this chapter and is hereby defined to be a loss of hearing in one or both ears due to
26 prolonged exposure to harmful noise in employment. "Harmful noise" means sound capable of
27 producing occupational deafness.

28 5. "Radiation disability" is recognized as an occupational disease for purposes of this
29 chapter and is hereby defined to be that disability due to radioactive properties or substances or
30 to Roentgen rays (X-rays) or exposure to ionizing radiation caused by any process involving the
31 use of or direct contact with radium or radioactive properties or substances or the use of or direct
32 exposure to Roentgen rays (X-rays) or ionizing radiation.

33 6. (1) Disease of the lungs or respiratory tract~~;~~ **diseases of the heart or**
34 **cardiovascular system including, but not limited to, diseases of the blood or bone marrow,**
35 **hypotension, and hypertension; and diseases of the body systems or organs from carcinoma**
36 ~~[hypotension, hypertension, or disease of the heart or cardiovascular system, including~~
37 ~~carcinoma,]~~ may be recognized as occupational diseases for the purposes of this chapter and are
38 defined to be disability due to exposure to smoke, gases, carcinogens, **or** inadequate oxygen, of
39 **paid or volunteer firefighters, firefighter paramedics, or firefighter emergency medical**
40 **technicians** of a ~~paid~~ fire department or **fire district or** paid police officers of a paid police
41 department certified under chapter 590 ~~[if a direct causal relationship is established,]~~ .

42 (2) ~~For purposes of this chapter,~~ psychological stress **and mental disorders may**
43 **be recognized as occupational diseases of paid, volunteer, or retired firefighters** ~~[of a paid~~
44 ~~fire department]~~ , **paramedics, emergency medical technicians,** or paid peace officers of a
45 police department who are certified under chapter 590 ~~[if a direct causal relationship is~~
46 ~~established]~~ . **Such psychological stress and mental disorders shall be defined to be**
47 **disability due to stressful exposures if such psychological stress and mental disorders arise**
48 **from their employment.**

49 7. (1) **Any infectious disease; disease of the lungs or respiratory tract; disease of**
50 **the heart or cardiovascular system including, but not limited to, disease of the blood or**
51 **bone marrow, hypotension, and hypertension; or disease of the body systems or organs**
52 **from carcinoma contracted by a paid, volunteer, or retired firefighter, paramedic, or**

53 emergency medical technician shall be presumed to be an occupational disease if there is
54 reasonable medical evidence that the paid, volunteer, or retired firefighter, paramedic, or
55 emergency medical technician was free of such disease at the beginning of his or her
56 employment. It shall be the duty of the employer of the paid, volunteer, or retired
57 firefighter, paramedic, or emergency medical technician to provide such reasonable
58 medical evidence.

59 (2) If the employer fails to produce such reasonable medical evidence, then the
60 paid, volunteer, or retired firefighter, paramedic, or emergency medical technician shall
61 have the benefit of the presumption regardless of the absence of reasonable medical
62 evidence.

63 (3) This subsection shall apply to paid, volunteer, and retired firefighters,
64 paramedics, and emergency medical technicians of all fire departments of all counties,
65 political subdivisions, cities, towns, fire districts, and other governmental units.

66 (4) As used in this section, "infectious disease" means the human immunodeficiency
67 virus, acquired immunodeficiency syndrome, tuberculosis, hepatitis A, hepatitis B,
68 hepatitis C, hepatitis D, diphtheria, meningococcal meningitis, methicillin-resistant
69 staphylococcus aureus, hemorrhagic fever, plague, rabies, and severe acute respiratory
70 syndrome.

71 8. (1) As used in this section, "psychological stress" and "mental disorder" shall
72 be presumed to be occupational diseases that were contracted in the course and scope of
73 employment, regardless of whether their onset is sudden or gradual, if such "psychological
74 stress" or "mental disorder" requires medical services or results in physical or mental
75 disability, diagnosed by a psychiatrist or psychologist, of a paid, volunteer, or retired
76 firefighter, paramedic, or emergency medical technician or of a paid police officer of a paid
77 police department certified under chapter 590.

78 (2) A paid, volunteer, or retired firefighter, paramedic, or emergency medical
79 technician, or a paid police officer of a paid police department certified under chapter 590,
80 who is diagnosed with posttraumatic stress disorder, psychological stress, or a mental
81 disorder during employment or within three years of the last active date of employment
82 shall be eligible for compensation benefits as otherwise provided for in this chapter.

83 9. Compensation for an infectious disease; disease of the lungs or respiratory tract;
84 disease of the heart or cardiovascular system including, but not limited to, disease of the
85 blood or bone marrow, hypotension, or hypertension; disease of the body systems or
86 organs from carcinoma; and psychological stress contracted by a paid, volunteer, or retired
87 firefighter, paramedic, or emergency medical technician in the course of hazardous duty
88 under this section shall be payable as otherwise provided for in this chapter.

10. As used in this section, the phrase "the body systems or organs from carcinoma" refers to any condition of cancer affecting the skin or the central nervous, lymphatic, digestive, hematological, urinary, skeletal, oral, breast, testicular, genitourinary, liver, or prostate systems, as well as any condition of cancer that may result from exposure to heat absorption, inhalation, ingestion, or radiation, contracted by a paid, volunteer, or retired firefighter, firefighter paramedic, or firefighter emergency medical technician. References to "the body systems or organs from carcinoma" shall be presumed to be references to cancer and an occupational disease if:

(1) The paid, volunteer, or retired firefighter, firefighter paramedic, or firefighter emergency medical technician has been assigned to at least five years of hazardous duty as a firefighter, firefighter paramedic, or firefighter emergency medical technician;

(2) The paid, volunteer, or retired firefighter, firefighter paramedic, or firefighter emergency medical technician was exposed to an agent, whether known or unknown, classified by the International Agency for Research on Cancer, or any successor organization, as a group 1 or 2A carcinogen or classified as a cancer-causing agent by the American Cancer Society, the American Association for Cancer Research, the Agency for Healthcare Research and Quality, the American Society of Clinical Oncology, the National Institute for Occupational Safety and Health, or the United States National Cancer Institute;

(3) Fewer than twenty years have elapsed since the paid, volunteer, or retired firefighter, firefighter paramedic, or firefighter emergency medical technician was last assigned to hazardous duty; and

(4) At the time of the diagnosis of cancer, the paid, volunteer, or retired firefighter, firefighter paramedic, or firefighter emergency medical technician is not seventy years of age or older.

11. The presumption described in subsection 10 of this section shall be rebuttable if:

(1) There is evidence that the exposure to personal use of cigarettes, tobacco products, or other conditions presenting an extremely high risk for the development of the cancer was, more than likely, the prevailing factor in the cause of progression of the cancer, and such exposure occurred outside the scope of employment as a paid, volunteer, or retired firefighter, firefighter paramedic, or firefighter emergency medical technician; or

(2) There is evidence that the paid, volunteer, or retired firefighter, firefighter paramedic, or firefighter emergency medical technician developed the type of cancer alleged before becoming a member of the fire department or fire district.

125 **12. The presumption described in subsection 8 of this section shall be rebuttable**
126 **if:**

127 **(1) There is evidence that the condition existed prior to the commencement of the**
128 **employment;**

129 **(2) The prevailing factor in causing such condition is unrelated to the employment;**
130 **or**

131 **(3) The prevailing factor in causing such condition is from exposures occurring**
132 **outside the scope of the employment.**

133 **13.** Any employee who is exposed to and contracts any contagious or communicable
134 disease arising out of and in the course of his or her employment shall be eligible for benefits
135 under this chapter as an occupational disease.

136 **[8:] 14.** With regard to occupational disease due to repetitive motion, if the exposure to
137 the repetitive motion which is found to be the cause of the injury is for a period of less than three
138 months and the evidence demonstrates that the exposure to the repetitive motion with the
139 immediate prior employer was the prevailing factor in causing the injury, the prior employer
140 shall be liable for such occupational disease.

287.068. 1. The division shall prepare a report containing the following
2 **information regarding presumed cancer claims under subsection 10 of section 287.067:**

3 **(1) The number of approved claims;**

4 **(2) The number of disapproved claims;**

5 **(3) The number of active claims; and**

6 **(4) The cost related to claims described under subdivisions (1) and (3) of this**
7 **subsection.**

8 **2. The division shall submit the report required under subsection 1 of this section**
9 **before August 28, 2022, and an updated report every two years thereafter, to each of the**
10 **following:**

11 **(1) The speaker and the minority leader of the house of representatives;**

12 **(2) The president pro tempore and the minority leader of the senate;**

13 **(3) The Missouri Association of Fire Chiefs or its successor organization;**

14 **(4) The Fire Fighters Association of Missouri or its successor organization; and**

15 **(5) The Missouri Municipal League or its successor organization.**

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